

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed November 10, 2008. At the time of the Office Action, Claims 1-17 and 26-27 were pending in the Application and stand rejected. Applicant has amended several Independent Claims in an effort to expedite the prosecution of the instant case. The amendments are not the result of any Prior Art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

Claims 1-9 and 26 are rejected as being anticipated by Gai et al. (hereinafter "*Gai*"). This rejection is respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that a claim is anticipated only if each element as set forth in the claim is either found, expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."² In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

Turning to Independent Claim 1, no reference of record provides for “...wherein the object is captured and the captured object is a plurality of packets that are broken down by a capture system and then reassembled...” For this first limitation, there is simply nothing in any of the cited references for this ***capturing activity***. Note that capturing is not the same as a simple reception, as the captured packets were not necessarily destined for a capture system that received them. Secondly, there is no disclosure that accounts for the ***reassembling operations*** outlined in Independent Claim 1. For example, the *Gai* reference is only disclosing a simple access list configuration. Candidly, there is simply nothing even germane in any of the cited references for the limitations highlighted above. These important limitations are provided for in Independent Claim 1, but no reference of record includes such elements. Applicant has reviewed *Gai* in its entirety and finds nothing that would be relevant to such operations.

For at least these reasons, Independent Claims 1, 14, 26, and 27 are allowable over the cited references. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons.

Section 103 Rejection

Claims 10-17 and 27 are rejected as being unpatentable over *Gai* in view of “Cryptographic Hash Functions” issued to Bart Preneel (hereinafter “*Preneel*”). This rejection is now moot in light of the §102 analysis provided above. More specifically, the rejection is moot because none of the cited references includes any of the limitations outlined supra.

For at least these reasons, all of the pending claims have been shown to be allowable as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims. Applicant believes no fee is due.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,
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Date: February 2, 2009

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